

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FU CHEN,

Plaintiff,

v.

ALEJANDRO MAYORKAS, et al.,

Defendants.

Case No. [24-cv-00915-TLT](#)

**ORDER DISMISSING CASE FOR
LACK OF SERVICE**

Re: Dkt. No. 7

Plaintiff filed a Complaint against Defendants Merrick Garland and Alejandro Mayorkas and paid the filing fee on February 15, 2024. ECF 1. A summons was issued as to Defendants Merrick Garland and Alejandro Mayorkas. ECF 2. The Court ordered Plaintiff to file proof of service i.e., a Summons Returned Executed, as to both Defendants pursuant to Federal Rule of Civil Procedure 4(l) and Civil Local Rule 4-2 and 5-5 by January 10, 2025. ECF 6. After Plaintiff failed to respond, the Court filed an Order to Show Cause. ECF 7. Plaintiff has still not responded.

Pursuant to FRCP 4(b), a plaintiff may present a summons to the clerk for signature and the clerk “must sign, seal, and issue it to the plaintiff for service on the defendant.” “A summons must be served with a copy of the complaint.” FRCP 4(c)(1). The plaintiff is responsible for serving the complaint and summons to the defendant within and must “furnish the necessary copies to the person who makes service.” *Id.* A plaintiff may not serve defendant himself. FRCP 4(c)(2). The Plaintiff has 90 days to serve the defendant after the complaint is filed. FRCP 4(m). If a defendant is not served within 90 days after the complaint is filed, however, the court must “dismiss the action without prejudice against that defendant or order that service be made within a specified time.” *Id.* If the plaintiff shows good cause for the failure, the court must extend the

1 time for service for an appropriate period. *Id.*

2 In this case, the clerk of the court issued the summons, but there is no evidence that
3 Plaintiff served Defendants with the copy of the completed summons. ECF 2. As a result, it does
4 not appear that Plaintiff served Defendants. After the Court ordered Plaintiff to either file proof of
5 service or show cause for why Defendants have not been properly served, Plaintiff did not
6 respond. ECF 7. The case has now been pending for almost a year, well beyond the 90 days
7 allotted under FRCP 4(m).

8 Accordingly, the Court **DISMISSES** the case for lack of service of process without
9 prejudice.

10 The Clerk of the Court is ordered to close the case and terminate the matter.

11 **IT IS SO ORDERED.**

12 Dated: February 5, 2025

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14 TRINA L. THOMPSON
15 United States District Judge
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